2024:PHHC:162501

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.14497 of 2020
Date of decision: 05.12.2024

Janak Rani Beri

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Munish Raj, Advocate
for Mr. Sandeep S. Majithia, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab
for respondent No.1.

Mr. Sanjeev Soni, Advocate
with Mr. Sarthak Soni, Advocate
for respondent No.2.

NAMIT KUMAR J. (Oral)

The instant petition has been filed by the petitioner claiming the following reliefs:-

> *a) To Issue of a writ in the nature of mandamus for setting aside the illegal and arbitrary order dated 18.04.2017 (Annexure P-3) whereby, the claim of the petitioner for all the dues, retiral benefits and family pension has been illegally rejected by the official respondents without giving any plausible reason;*
>
> *b) It is still further prayed that the answering respondents be ordered to release the payment of all the dues, retiral benefits and family pension due towards the petitioner and her family, since the date of retirement of husband of the petitioner i.e. 31.03.2001;*

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c) It is further prayed that any other appropriate writ order or direction, as this Hon'ble Court may deem fit and proper, may kindly be passed in the interest of justice;

d) To produce the complete records of the case;

e) Filing of certified copies of Annexures may be dispensed with;

f) Issuance of advance notices in the present case be dispensed with;

g) Cost of the petition be awarded to the petitioner.

Short reply on behalf of respondent No.2 – Municipal Corporation, Amritsar, has been filed wherein it has been stated as under:-

2. That in compliance of the order passed by this Hon'ble Court dated 16.09.2020 it is submitted that the husband of the petitioner was superannuated from the post of Inspector on 31.03.2001. Thereafter, he was paid all his retiral cum pensionary benefits. The detail of which is as under:

Sr. No.	*Date*	*Cheque No.*	*Amount*	*Name of Bank*
1.	*07.06.2001*	*985376*	*170362*	*OBC (Now merged in PNB)*
2.		*-do-*	*103250*	*OBC (Now merged in PNB)*
Total Amount Paid			*273612*	

Provident Fund:

Sr. No.	*Date*	*Cheque No.*	*Amount*	*Name of Bank*
1.	*03.09.2001*	*945504*	*192817*	*PNB*
Total Amount Paid			*192817*	

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The payment of above mentioned amount has also been entered into General Cash Book as Expenditure of the Municipal Corporation, Amritsar and in counter Foil for cheques. The relevant extract true translated copy of General Cash Book and Counter Foil for Cheques is Annexure R-2/1.

3. That husband of the petitioner expired on 25.02.2011. Thereafter, the petitioner was entitled for the family pension. Her case was processed in the office and she was granted family pension, during the processing of case some arrear of the family pension was accrued w.e.f. 26.02.2011 to 31.07.2011 which was paid to the petitioner on 29.08.2011 vide cheque No.337452 amounting to Rs. 29581/-. Thereafter, the regular family pension is being paid to the petitioner w.e.f. 01.08.2011 onwards. Thereafter, there was revision of pay due to implementation of pay commission and the petitioner was also paid the arrear of the revised pay scale. The detail of the arrear of pension as well as arrear of revised pay scale is tabulated below:

Sr. No.	*Date*	*Cheque No.*	*Amount*	*Name of Bank*
1.	*29.08.2011*	*337452*	*29581*	*SBI (Credited to PNB)*
2.	*12.07.2012*	*699722*	*14538*	*SBI (Credited to PNB)*
3.	*08.11.2016*	*719895*	*29075*	*SBI (Credited to PNB)*

The copy of the accounts statements showing the credit of these cheques is annexed herewith as Annexure R-2/2.

4. That it is pertinent to mention over here that the husband of the petitioner during his life time has never given any representation for retiremental cum pensionary benefits as the same has been paid to him during his life time. In case, it had not been paid to him during his life time he would

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have file any litigation or complaint against the respondent. But there was no such complaint or litigation filed by the deceased husband of the petitioner during his life time.

5. That in compliance with the order passed by this Hon'ble High Court the deponent has requested the bank authorities to issue certificates regarding the statement of the account of the municipal corporation for the year 2001 but but the bank has issued a certificate dated 17.10.2020 in which they have informed that their Finacle software has been started in the year 2004 and previous record for the account is not available. It has also been informed by the bank that bank is not holding the old record beyond 10 years. The copy of the bank letter dated 17.10.2020 and 21.10.2020 is annexed herewith as Annexure R-2/3 Colly.

6. That however, the report has been taken by the account department who had certified that all the above mentioned cheques have been encashed and not even a single cheque has been returned to the Municipal Corporation, Amritsar. The copy of the report of accounts department is annexed herewith as Annexure R-2/4.

7. That in view of the above nothing is payable to the petitioner in lieu of retiremental cum pensionary benefits of her deceased husband. The order dated 18.04.2017 (P-3) is legal, valid and justified, hence needs to be upheld.

8. That the petitioner submitted her representation dated 18.11.2016 regarding non disbursal of the payment of retiremental cum pensionary benefit of her deceased husband. The said representation was disposed and reply was sent to the petitioner vide office letter bearing No. DCFA/PB/73 dated 14.02.2017 in which it was informed to the petitioner that the arrear of first installment of the

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revised pay scale amount to Rs.14538/- has been paid to you in July 2012 and remaining two installments were also paid to you amounting to Rs.29075 along with the pension of October 2016 paid in November 2016 and the arrear of family pension amounting to Rs.29581 was also paid to you on 29.08.2011 and it was also informed that in case of death of any retiree the payment of Ex-gratia is not payable and the payment of gratuity and leave encashment had already been received by your husband during his life time. The copy of representation dated 18.11.2016 and the true translated copy of the letter dated 14.02.2017 is annexed herewith as Annexure R-2/5 and R-2/6 respectively.

Thereafter, the matter came up for hearing before this Court on 17.11.2020 and the following order was passed:-

Learned counsel for respondent No.2 seeks one last opportunity to place on record the mode by which the payment of the dues in respect of the service rendered by late husband of the petitioner were released.

As per the reply filed by respondent No.2, dues of Sh. Jagdish Beri were paid vide cheque No.985376 dated 07.06.2001; cheque No.945504 dated 03.09.2001; cheque No.337452 dated 29.08.2011; cheque No.699722 dated 12.07.2012 and cheque No.719895 dated 08.11.2016.

Learned counsel for the petitioner is disputing the payment qua the cheques dated 07.06.2001 and 03.09.2001.

In the affidavit to be filed by now, let respondent No.2 give the details as to how these cheques were delivered to the late husband of the petitioner and whether these have been ever encashed so as to consider that the

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payments to the husband of petitioner were already made by the respondent-Corporation.

Adjourned to 20.01.2021.

In pursuance to the said order, compliance report by way of affidavit of Komal Mittal, Commissioner, Municipal Corporation, Amritsar (respondent No.2) has been filed, wherein it has been stated as under:-

3. That in compliance to the order dated 17.11.2020 the deponent has got the old record searched and it is found that the cheques bearing No.985376 dated 07.06.2001 amounting to Rs.2,73,612/- has been received by the deceased husband of the petitioner Sh. Jagdish Beri who has also given acknowledged to the receipt of the cheque. The copy of the acknowledgment is annexed herewith as Annexure R-2/7.

4. That regarding the cheque bearing No. 945504 dated 03.09.2001 no record could be traced regarding the delivery of this cheque but the counter foils for cheques maintained by Municipal Corporation, Amritsar has been traced and annexed herewith as Annexure R-2/8.

5. That in compliance with the order passed by this Hon'ble High Court the concerned bank was also approached for supply of the bank statements of the year 2001 but the bank authorities has shown inability to provide the record being more than 10 years old. The copy of the intimation received from the bank is annexed herewith as Annexure R-2/9.

Learned counsel for respondent No.2 has produced a copy of the bank statement whereby cheque No.945504 amounting to

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Rs.1,92,817/-, has been debited from the account of the respondent – Corporation, on 01.09.2021 and the same is taken on record.

On the last date of hearing, the following order was passed:-

> *Learned counsel for respondent No.2 submits that all the due payments have been released to the petitioner and therefore, the instant petition has been rendered infructuous.*
>
> *Learned counsel for the petitioner seeks one week time to get instruction from the petitioner in this regard.*
>
> *Adjourned to 05.12.2024.*
>
> *To be taken up immediately after urgent list.*

Since all the payments have been released to the petitioner, therefore, the instant petition has been rendered infructuous.

Disposed of accordingly.

(NAMIT KUMAR)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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